

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
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FINAL STATEMENT OF REASONS AND UPDATED INFORMATIVE DIGEST

**CALIFORNIA LOW COST AUTOMOBILE INSURANCE PROGRAM
UNINSURED MOTORISTS AND MEDICAL PAYMENTS COVERAGES
AND PREMIUM PAYMENT OPTION**

INTRODUCTION AND UPDATED INFORMATIVE DIGEST

California Insurance Commissioner John Garamendi has determined, after public hearing, to maintain current premiums and coverage limits established by emergency regulations on January 13, 2003 and readopted on May 6, 2003 for optional uninsured motorists and medical payments coverages under the California Low Cost Automobile Insurance Program. The current premiums for uninsured motorists bodily injury coverage, at limits of \$10,000/\$20,000, are \$64 for Los Angeles County and \$39 for the City and County of San Francisco. The current rates for medical payments coverage, at limits of \$1,000, are \$26 for Los Angeles County and \$24 for the City and County of San Francisco. In addition, the Commissioner has determined that installment payments for the new legislatively mandated premium payment plan shall be made on a bi-monthly basis, at the policyholder's option.

To implement these determinations, the Commissioner has adopted amendments to Section 25 of the program's Plan of Operations specifying coverages and limits, Section 26 on installment payment options, and Section 27 specifying premiums. The Plan of Operations, approved by the Commissioner, is referenced in Title 10, Chapter 5, Section 2498.6 of the California Code of Regulations.

The purpose of these regulations is to implement, interpret and make specific the provisions of California Insurance Code Sections 11629.71, 11629.72, 11629.91, and 11629.92, as amended by 2002 Stats., chapter 742 (formerly SB 1427 Escutia).

Recently enacted low cost automobile insurance program legislation, effective January 1, 2003, requires that uninsured motorists and medical payments coverages be offered to eligible consumers. The legislation does not specify a rate, but merely states that additional premiums are authorized. Consistent with California Insurance Code Section 11580.2, the legislation provides for uninsured motorists bodily injury coverage at the lower liability limits of the underlying low cost auto insurance policy, but does not specify limits for the medical payments coverage. In addition, the legislation adds a new premium installment payment option of a fifteen percent advance deposit with six installments, but does not specify if the installment payments are to be made on a monthly or bi-monthly basis.

California Insurance Code Sections 11629.72(c) and 11629.92(c) provide that, annually, the California Automobile Assigned Risk Plan (CAARP) shall submit a proposed rate to the Commissioner for approval. Accordingly, CAARP submitted proposed rates for these additional coverages. In its rate application, CAARP proposed premiums for uninsured motorists bodily injury coverage at the lower liability limits of the low cost auto insurance policy of \$761 for Los Angeles County and \$531 for the City and County of San Francisco. For medical payments coverage, with limits of \$1,000, CAARP proposed premiums of \$142 for Los Angeles County and \$89 for the City and County of San Francisco. Further details appear in the application on file with the Commissioner and available for review. CAARP further proposed that the new premium payment plan be based on six monthly payments. Existing installment payment options in the program are based on bi-monthly payments, as a result of consumer comments during the initial establishment of the pilot programs.

The Commissioner established initial rates and limits for these additional coverages through emergency regulatory action, approved January 13, 2003 and readopted May 6, 2003. Although CAARP proposed higher rates, the Department adopted different rates based on independent actuarial review. Currently, the annual premiums for uninsured motorists bodily injury coverage at \$10,000/\$20,000 limits are \$64 for Los Angeles County and \$39 for the City and County of San Francisco. The current rates for medical payments coverage, at limits of \$1,000, are \$26 for Los Angeles County and \$24 for the City and County of San Francisco.

California Insurance Code Sections 11629.7 through 11629.84 establish, within the California Automobile Assigned Risk Plan, a low-cost automobile insurance pilot program for the County of Los Angeles. Sections 11629.9 through 11629.995 of the Insurance Code establish, within the California Automobile Assigned Risk Plan, a low-cost automobile insurance pilot program for the City and County of San Francisco.

Because the low cost automobile insurance pilot programs are established and administered through CAARP, established under Sections 11620-11627 of the California Insurance Code, CAARP procedures are applied to the low cost automobile insurance pilot programs where appropriate and not inconsistent with the low cost automobile insurance statutes. Pursuant to California Insurance Code Sections 11620 and 11624, the Commissioner approves rates for those obtaining coverage through the assigned risk plan. Before amending premium rates for CAARP, the Commissioner holds a public hearing.

For the low-cost automobile insurance pilot programs, California Insurance Code Sections 11629.7 and 11629.9 require the Commissioner, after a public hearing, to approve or issue a reasonable plan for the equitable apportionment, among insurers, of eligible persons residing in the County of Los Angeles and the City and County of San Francisco. California Code of Regulations, Title 10, Chapter 5, Section 2498.6 references the plan. This plan, approved by the Commissioner, contains rules and rates.

In accordance with these rate-setting procedures, the Commissioner held a public hearing on May 7, 2003 to consider current rates and CAARP's proposal. The public comment period was extended to May 16, 2003 for additional information.

STATEMENT OF SPECIFIC PURPOSE AND NECESSITY

The specific purpose of each regulation and the rationale for the Commissioner's determination that each regulation is reasonably necessary to carry out the purpose for which it is proposed is set forth below:

Section 25. Extent of Coverage

Newly enacted low cost automobile insurance program legislation, 2002 Stats., chapter 742, requires that uninsured motorists and medical payments coverages be offered to eligible consumers. The legislation provides for uninsured motorists coverage limits consistent with California Insurance Code Section 11580.2, which requires bodily injury coverage with limits equal to the limits of liability in the underlying automobile policy. Under the pilot programs, the low cost auto policy provides \$10,000 for liability for bodily injury or death to one person, subject to a cumulative limit of \$20,000 for all persons in one accident. The legislation further provides that these lower liability limits satisfy financial responsibility laws. However, the legislation does not specify coverage limits for medical payments coverage.

Since the optional uninsured motorists and medical payments coverages are newly mandated, the existing Section 25 on Extent of Coverage in the current Plan of Operations only sets forth coverages and limits for the basic low cost auto policy.

A new subsection 2 adds the new optional coverages. Under the proposed provisions of subsection 2a, coverage liability limits of \$10,000/\$20,000 for uninsured motorists bodily injury coverage are set forth, conforming to the mandates of 2002 Stats., chapter 742, amending California Insurance Code Sections 11629.71 and 11629.91. The subsection provides that these limits satisfy financial responsibility laws, as set forth in the legislation. An insured may reject uninsured motorists coverage if the assigned insurer and named insureds agree in writing to delete this protection. If previously rejected, the assigned insurer need not offer to provide this coverage in a renewal policy. These provisions conform to California Insurance Code Section 11580.2(a). Thus, the rationale for adopting subsection 2a is to conform to legislation.

Under the proposed provisions of subsection 2b, coverage limits of \$1,000 are set forth for medical payments coverage. Such limit was proposed by CAARP and is consistent with the coverage limits of CAARP policies. Adopting these provisions are necessary to establish uniform coverage limits for the legislatively-mandated coverages so that the consumer pays the same rate for the same coverage irrespective of what company the consumer is assigned.

Other changes are technical and non-substantive, such as re-numbering changes, and are proposed to maintain a topical flow of information for ease of readability.

Section 26 Premium Payment Options

Newly enacted low cost automobile insurance program legislation added another premium payment option to the existing payment options in California Insurance Code Sections 11629.72 and 11629.92, specifically a fifteen percent down payment with the remainder to be paid in six payments. The legislation does not specify if payments are to be made on a monthly or bi-monthly basis. Existing premium payment options are paid on a bi-monthly basis, although CAARP has proposed payments on a monthly basis.

Existing Section 26 C on Installment Premium Payment Options sets forth the requirements and procedures for the two existing installment premium payment options. The proposed new subsection 3 adds a third option, specified in the legislation, with respect to requirements and procedures, and follows the requirements and procedures of the existing payment options. The Commissioner has determined, after public hearing, that payments shall be permitted on a bi-monthly basis for this option. Adopting this subsection is necessary to conform to the legislative mandate of 2002 Stats., chapter 742. The rationale for a bi-monthly payment schedule is to be consistent with existing payment schedules and respond to consumer comments for affordable payment plans. Adopting a payment schedule is necessary so that participating insurers and consumers are knowledgeable about their rights and obligations.

Section 27 Premium Determination

The newly enacted low cost automobile program legislation requires that uninsured motorists and medical payments coverages be offered to eligible consumers, without specifying rates. It merely states that additional premiums are authorized. Under the pilot programs, rates are uniform so that the consumer pays the same rate irrespective of what company the consumer is assigned. Because the legislation required these coverages to be offered as of January 1, 2003, adoption of rates on an emergency basis was the only way to implement rates as close to that date as possible.

California Insurance Code Sections 11629.72(c) and 11629.92(c) require that, annually, CAARP submit to the Commissioner loss and expense data, together with a proposed rate for approval. CAARP submitted a proposed rate for the additional coverages, proposing premiums of \$761 for Los Angeles County and \$531 for the City and County of San Francisco for uninsured motorists bodily injury coverage at \$10,000/\$20,000 limits. For medical payments coverage, at \$1,000 limits, CAARP proposed premiums of \$142 for Los Angeles County and \$89 for the City and County of San Francisco.

The statutes specify that rates shall be sufficient to cover losses incurred under policies issued under the pilot program and expenses. In assessing loss reserves, the Commissioner shall only allow loss reserves estimated from actual losses in the pilot programs or comparable data by a licensed statistical agent, adjusted to reflect coverage provided by the pilot programs. Rates shall be set so as to result in no subsidy of the program or subsidy of policyholders in one pilot program by policyholders in the other pilot program.

After reviewing CAARP's methodology and approach, the Department determined that rates different than those proposed by CAARP should be established. As approved by emergency regulatory action on January 13, 2003 and readopted on May 6, 2003, the current rates for uninsured motorists bodily injury coverage, with limits of \$10,000/\$20,000, are \$64 for Los Angeles County and \$39 for the City and County of San Francisco. Current rates for medical payments coverages, at \$1,000 limits, are \$26 for Los Angeles County and \$24 for the City and County of San Francisco.

After public hearing and consideration of public comments, the Commissioner has determined that current rates satisfy the requirements of rate-setting standards.

Existing Paragraph C on Rates in Section 27 of the current Plan of Operations sets forth rates for the basic low cost auto policy. A topical heading has been added to differentiate these rates from the rates for the additional coverages. The rationale for this proposed technical change is to avoid confusion and insure ease of readability.

New subsections 2a and 2b have been added to set forth annual premiums of \$64 for insureds in Los Angeles County and \$39 for insureds in the City and County of San Francisco for uninsured motorists bodily injury coverage and premiums of \$26 for Los Angeles County and \$24 for the City and County of San Francisco for medical payments coverage, consistent with statutory rate-setting standards. Adopting these subsections is necessary to clarify applicable rates for the additional coverages so that eligible consumers, producers, and participating insurers are knowledgeable and that the consumer pays the same rate for the same coverage irrespective of what company the consumer is assigned.

IDENTIFICATION OF STUDIES

CAARP's rate application relies upon the expertise of CAARP's technical staff. The Department's rate proposal, adopted in an emergency regulatory action, relies upon the expertise of its professional staff. Other than CAARP's application, available for public review in the rulemaking file, no studies have been submitted for this proceeding. All commenters were given an opportunity to comment on all of the comments of the other commenters included in the rulemaking file.

SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed rates and payment plan would not mandate the use of specific technologies or equipment.

ALTERNATIVES

As set forth in the responses to comments on the proposed regulations and elsewhere in this rulemaking file, the Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

MANDATES

The regulations do not impose a mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

The Commissioner has determined that the proposed regulations will not have a significant adverse economic impact on businesses because the rates apply to private passenger automobile policies.

FORM 399

The Commissioner has determined that the proposed regulations do not have a fiscal impact to state agencies, local agencies and school districts or federal funding. Therefore, the Fiscal Impact Statement (Form 399), signed January 15, 2003, is still accurate.